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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matters of)	
)	
Deployment of Wireline Services Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability)	
)	
and)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the)	
Telecommunications Act of 1996)	

COMMENTS OF
PF.NET COMMUNICATIONS, INC.

PF.Net Communications, Inc. ("PF.Net"), by undersigned counsel, submits these comments in response to the Commission's notices of proposed rulemaking¹ in the above-captioned proceeding. The NPRM responds to issues raised on remand of the *Collocation Order*² by the United States Court of Appeals for the District of Columbia Circuit.³ PF.Net requests that the Commission determine that competitive fiber providers ("CFPs") are entitled to route facilities into incumbent local exchange carrier ("ILEC") central offices where competitive local exchange carriers ("CLECs") are collocated, and to collocate facilities needed to

¹ *In the Matters of Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 98-147, 96-98, Order on Reconsideration and Second Further Notice of Proposed Rulemaking in CC Docket No. 98-147, and Fifth Further Notice of Proposed Rulemaking in CC Docket No. 96-98, FCC 00-297 (August 10, 2000) ("NPRM").

² *Deployment of Wireline Services Offering Advanced Telecommunications Capability*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 98-147, 14 FCC Rcd 4761 (1999) ("*Collocation Order*"), *aff'd in part and remanded in part sub. nom. GTE v. FCC*, *supra*.

³ *GTE Service Corp v. FCC*, 205 F.3d 416 (D.C. Cir. 2000).

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interconnect with CLECs, even in situations where CFPs do not directly interconnect with, or access unbundled network elements ("UNEs") of, the ILEC. The ability to collocate and interconnect with CLECs is necessary so that CFPs may provide transport services in competition with the ILEC. This determination is fully supported by the Telecommunications Act of 1996 (the "Act") and it will help ensure the development of local competition as intended by the Act.

PF.Net is a facilities-based provider of fiber-optic communications infrastructure to communications carriers, Internet service providers ("ISPs"), corporations with enterprise network needs and government entities.⁴ PF.Net is in the process of constructing a nationwide fiber-optic Internet protocol network capable of delivering data, video, and voice services.

In many cases, CFPs such as PF.Net will interconnect with, and access UNEs of, the ILEC. PF.Net fully supports comments of other CLECs in this proceeding that urge the Commission to establish strong rules governing CLECs' rights to collocate in these circumstances. In these comments, however, PF.Net addresses only the circumstances in which CFPs do not directly interconnect with, or access UNEs of, the ILEC. Even though CFPs do not always interconnect directly with ILECs, the services CFPs provide to CLECs are essential for CLECs to be able to compete with ILECs. To overcome the natural advantages of the incumbent ILECs, CFPs must be able to (1) collocate racks and similar facilities in ILEC central offices where CLECs have established collocation sites; and (2) interconnect directly with CLEC facilities at those collocation sites without directly interconnecting with, or accessing UNEs of, the ILEC.

⁴ More information regarding PF.Net can be found at www.pf.net.

ARGUMENT

I. COMPETITIVE FIBER PROVIDERS MAY COLLOCATE PURSUANT TO SECTION 251(C)(6) AT ILEC PREMISES

Section 251(c)(6) of the Act imposes a duty on ILECs “to provide, on rates, terms, and conditions that are just, reasonable, and nondiscriminatory, for physical collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the local exchange carrier[.]” 47 U.S.C. § 251(c)(6). Section 251(a) of the Act imposes a duty on all telecommunications carriers “to interconnect directly or indirectly with the facilities and equipment of other telecommunications carriers.” 47 U.S.C. § 251(a)(1). The Commission sought comment on whether Section 251(c)(6) was limited to direct interconnection with the ILEC.⁵ PF.Net submits that CFPs must be permitted to collocate facilities at ILEC premises even when they are not directly interconnected with the ILEC because direct interconnection with a CLEC constitutes indirect interconnection with the ILEC.

CLECs collocate facilities at ILEC premises in order to obtain access to ILEC UNEs and otherwise interconnect with the ILEC network. Thus, the CLEC is always interconnected with the ILEC at the CLEC collocation site. By interconnecting with the CLEC at the CLEC collocation site, the CFP is also interconnected with the ILEC network. For example, a CLEC may collocate a digital subscriber line access multiplexer (“DSLAM”) in an ILEC central office in order to interconnect with the ILEC’s local loop UNEs. When a CFP provides transport for the CLEC from the CLEC DSLAM to an Internet service provider, the CFP is indirectly interconnected with the ILEC local loops.

The Commission also sought comment on whether it is “necessary,” as that term is used in Section 251(c)(6), for providers of dark fiber and interoffice transport to collocate in ILEC central offices.⁶ Collocation of a CFP’s facilities is necessary to place CFPs in competitive parity

⁵ NPRM at para. 88.

⁶ NPRM at para. 83.

with the ILEC for the provision of transport. If CFPs are denied collocation rights, thereby denying collocated CLECs with direct access to them, or if CFPs are forced to interconnect with CLECs at locations other than the CLEC collocation sites, CFPs will be put at a competitive disadvantage vis-a-vis ILECs.⁷ As long as CLECs must route traffic out of their collocation sites to a separate off-premises point of interconnection with a CFP, ILECs will always enjoy cost and service quality advantages by being able to directly interconnect with CLECs within the central office in order to provide transport out of that central office. In order to level the playing field between CFPs and ILECs, CLECs must be able to establish identical interconnection arrangements with ILECs and CFPs.

Market realities also support this conclusion. Given the enormous expense of obtaining collocation space from an ILEC, and given the competitive risk of relying upon the ILEC for critical inputs needed to provide a competitive local service, competitive telecommunications providers would likely collocate equipment only when to do so is essential to remain competitive. All things being equal, a competitive telecommunications provider would prefer to avoid reliance upon any service provided by the ILEC. All things are not equal, however, and CFPs must be able to interconnect with CLECs on terms no less favorable than the CLEC can obtain from the ILEC. Therefore, CFPs must be able to interconnect with the CLEC where the ILEC would interconnect with the CLEC – at the CLEC collocation site.

II. EVEN IF 251(C)(6) COLLOCATION RIGHTS DO NOT APPLY TO COMPETITIVE FIBER PROVIDERS DIRECTLY, THE COMMISSION SHOULD REQUIRE ILECS TO PERMIT CFPS TO COLLOCATE IN, OR OBTAIN ACCESS TO, THE ILEC CENTRAL OFFICE AS A REASONABLE CONDITION OF COLLOCATION GENERALLY

Even if Section 251(c)(6) does not require ILECs to provide collocation opportunities to

⁷ For the same reasons, the Commission must require CLECs to establish direct cross-connections between their facilities within ILEC central offices. Otherwise, ILECs would always have an advantage over CLECs because of the additional facilities required to establish CLEC-to-CLEC interconnection as opposed to CLEC-to-ILEC interconnection.

CFPs when those CFPs do not interconnect with the ILEC network directly, competitive transport providers should be permitted to route facilities into ILEC central offices and establish collocation arrangements in order to interconnect with CLECs as a reasonable condition of collocation generally. The Commission has the authority to impose such conditions, and such conditions would promote competition while not unduly burdening the ILECs.

A. The Commission Has the Authority to Establish Reasonable Terms and Conditions to Implement Section 251(c)(6)

Section 251(c)(6) requires ILECs to provide collocation of equipment necessary for interconnection and access to UNEs on rates, terms, and conditions that are just reasonable, and nondiscriminatory. The Commission has the obligation and authority to adopt rules implementing this provision in order to effectuate the “pro-competitive, deregulatory national policy framework” for telecommunications “designed to open all telecommunications markets to competition so as to make advanced telecommunications and information technologies and services available to all Americans.”⁸ Even under the decision of the D.C. Circuit remanding the *Collocation Order* to the Commission, the Commission has the authority to establish reasonable guidelines for the provisioning of collocation space to achieve the objectives of the Act. Those reasonable guidelines must operate within the limits of the ordinary and fair meaning of the Act’s terms.⁹

Provided that the Commission determines that it is necessary for a CLEC to collocate facilities at the ILEC premises in order to achieve the objectives of the Act, reasonable and nondiscriminatory terms and conditions of those collocation rights should permit CFPs also to collocate facilities at the ILEC premises. In this way, CFPs will be able to collocate in ILEC

⁸ NPRM at para. 8, *citing* Joint Statement of Managers, S. Conf. Rep. No. 104-230, 104th Cong. 2d Sess. 1 (1996).

⁹ 205 F.3d at 424.

central offices and provide transport to CLECs collocated in the central office as a reasonable condition of collocation offered to CLECs generally.

B. Permitting CFPs to Collocate Facilities in and Obtain Access to ILEC Central Offices Would be a Reasonable Condition

By adopting terms and conditions of collocation that require ILECs to permit CFPs to collocate facilities at, and obtain access to, the ILEC premises, the Commission would promote local competition without unduly burdening the ILEC. By ruling that CFPs may interconnect at CLEC facilities collocated at ILEC premises, the Commission would ensure that the CLECs' interconnection with the ILEC network would be able to take advantage of services that may be of superior quality to the services provided by the ILEC, or at rates priced below comparable offerings by the ILEC. Any other approach would make the CLEC collocation site an island in a sea of ILEC facilities: either the CLEC would be required to deploy its own transport facilities out of the ILEC central office, or it would be required to purchase transport from the ILEC. Denying CFPs access to CLEC collocation sites would impair the CLECs' ability to choose service providers. Adopting a rule that ensures CLEC access to alternative transport providers on competitive interconnection terms would promote local competition.

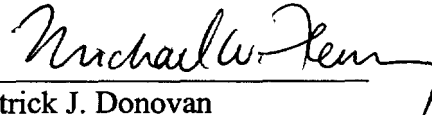
While such a rule would promote local competition, it would not unduly burden the ILEC. As the Commission has recognized already, subjecting CFP and CLEC collocation arrangements to the same reasonable safety requirements that the ILEC places on its own facilities provides sufficient protection to the ILEC.¹⁰

¹⁰ NPRM at para 86.

III. CONCLUSION

For the foregoing reasons, the Commission should determine that providers of competitive transport services are entitled to collocate facilities at ILEC premises pursuant to Section 251(c)(6) and interconnect those facilities with CLEC facilities at those premises. In the alternative, the Commission should adopt reasonable terms and conditions of collocation that permit CFPs to collocate as a reasonable condition of collocation offered to CLECs generally so that CFPs may provide a competitive alternative to ILEC transport services. In order to advance the pro-competitive goals of the Act, competitive transport providers must be able to route facilities into ILEC central offices and collocate equipment necessary to interconnect with CLECs.

Respectfully submitted,



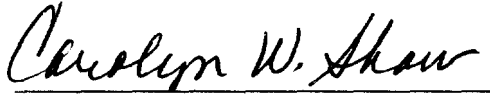
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Dated: October 12, 2000

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CERTIFICATE OF SERVICE

I, Carolyn W. Shaw, do hereby certify that on this 12th day of October, 2000 the foregoing Comments of PF.Net Communications, Inc. were delivered by hand to the following:



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